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SIPDIS

LONDON FOR GURNEY  
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NSC FOR SENIOR AFRICA DIRECTOR JENDAYI FRAZER

E.O. 12958: N/A

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SUBJECT: COMMERCIAL FARMERS CHARGED WITH CRIME OF FARMING

1. Summary: On July 4-5, 15 Chiredzi-area commercial sugar farmers were charged with violating section 8 of the Land Acquisition Act by continuing to farm past the government-mandated deadline for ceasing commercial farming activity. As of May 10, 2002 all farmers who fail to stop occupying, holding, or using land 45 days after the original section 8 notification were subject to criminal penalties. This legislation is retroactive to all previous section 8 acquisition orders, thereby making any occupation or use of land after June 24 a criminal offense. The farmers were charged with obstructing the government's land resettlement program even though they had adhered to the government's guidelines regarding farm-size, and had formally applied for an extension of their section 8 orders in advance of the deadline. It is unclear why these 15 were singled out for prosecution because all of the 52 small-scale commercial farmers in Chiredzi have followed the same process to both avoid contravening the Land Acquisition Act, and to continue to pursue their livelihoods. End summary.

2. On July 9, Poloff and Econoff met with David Hasluck, Director of the Commercial Farmers Union (CFU) to discuss the charges brought against the fifteen independent sugar cane farmers on July 4 and 5 for continuing to tend to their crops subsequent to the June 24 deadline. Hasluck believes that someone resettled under the fast track program probably raised the complaint against the farmers, thereby staking a claim on the cane growing on the farms. Hasluck's feeling was that this -- the first such filing of official charges under the Land Acquisition Act -- was a test case, and that if the farmers lost, this would signal even more chaos at a time when few crops are being grown and widespread famine is looming.

3. The farmers were charged with violating the government's resettlement program even though their farms are within the maximum farm size regulations promulgated by Minister of Lands Joseph Made. Although the regulation has not been formally enshrined within the Land Act, the 15 farmers were under the impression that as long as they complied with this guideline they would be allowed to retain their holdings and continue to farm. The fact that the farmers have been charged anyway makes it increasingly unclear how commercial farmers can legally retain any portion of their holdings. The Lands, Agriculture and Rural Resettlement Ministry has announced a bevy of (sometimes contradictory) guidelines relating to the resettlement program, and the situation on the ground varies significantly from area to area. Hasluck commented that, often, the amount of land each farmer is allowed to retain depends on the individual proclivities of, as well as the farmer's relationship with, the local land committees. The disconnect between the messages emanating from Harare and the situation on the ground leaves commercial farmers in the untenable situation of not knowing which regulations to comply with to avoid contravening the Land Act. Essentially, the lack of transparency within the resettlement process means that even if these commercial farmers adhere to the most recent "rules" of the land reform program they have very little legal recourse because the GOZ continually moves the goalposts.

4. Hasluck noted that all 52 of the small scale sugarcane growers in Chiredzi submitted formal requests for extension of their section 8 acquisition orders to Minister Made because they still had crops in the ground that needed to be harvested. It is therefore unclear why the 15 farmers were selected for prosecution, and not any of the other 37 independent cane growers. This is only the latest example of widespread arbitrariness in the implementation of the GOZ's resettlement program.

5. Hasluck told the story of a Chegutu commercial farmer who applied to Minister Made's office for an extension of his section 8 orders. The farmer copied his request to the local land committee and then approached this body to follow-up. Although the local committee informed the farmer that he was free to continue his operations, halfway into the growing season, he received a letter on behalf of Minister Made informing him that there were to be absolutely no extensions of section 8 orders, and that the local land committees did not have the authority to grant waivers. In many ways the

Chegutu farmer,s predicament is analogous to the situation faced by the 15 Chiredzi commercial farmers and, indeed, commercial farmers throughout the country.

Comment

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16. We agree with Hasluck's assesment that this will be an important test case of the GOZ's land reform program. A successful prosecution will embolden the GOZ to pursue charges against all commercial farmers who have not stopped farming, and will discourage any remaining commercial farmers from continuing their operations. This will exacerbate the already dramatic food shortage, as newly resettled farmers won't come close to filling the gap left by the commercial producers. The Chegutu example suggests that Minister Made is uninterested in compromise, despite the fact that half the population will soon require food assistance. August 9 now looms as a crucial date, as that is the GOZ's deadline for all commercial farmers to be off properties that have been listed.

SULLIVAN